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13
14 **UNITED STATES DISTRICT COURT**
15
16 **NORTHERN DISTRICT OF CALIFORNIA**
17
18 **OAKLAND DIVISION**
19

20 VICTOR J. NG, Individually and on Behalf
21 of All Others Similarly Situated,

22 Plaintiff,

23 v.

24 BERKELEY LIGHTS, INC., et al.,

25 Defendants.
26
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Case No. 4:21-cv-09497-HSG

**STIPULATION AND ORDER
REGARDING HEARING ON
DEFENDANTS' MOTIONS TO DISMISS**

1 WHEREAS, on July 25, 2022, Lead Plaintiff and Plaintiff Pompano Beach Police and
 2 Firefighters' Retirement System (collectively, "Plaintiffs") filed an Amended Complaint (Dkt.
 3 No. 89) alleging violations of the Securities Act of 1933 and the Securities Exchange Act of
 4 1934 against Berkeley Lights, Inc. ("BLI"); its current and former executives: Eric D. Hobbs,
 5 Shaun M. Holt, and Kurt Wood; nine current and former members of BLI's board: Igor
 6 Khandros, Michael Marks, Sarah Boyce, Gregory Lucier, Michael Moritz, Elizabeth Nelson,
 7 James Rothman, Ming Wu, and Makoto Shintani (collectively with BLI and its former
 8 executives, "BLI Defendants"); three firms alleged to have invested in BLI: entities associated
 9 with Celesta Capital f/k/a WRVI Capital ("Celesta Defendants"),¹ Sequoia Capital ("Sequoia"),
 10 and Nikon Corporation ("Nikon"); and the underwriters for BLI's Initial Public Offering: J.P.
 11 Morgan Securities LLC, Morgan Stanley & Co. LLC, Cowen and Company, LLC, and William
 12 Blair & Company L.L.C. ("Underwriter Defendants") (collectively, "Defendants");

13 WHEREAS, on November 11, 2022, Defendants filed five motions to dismiss the
 14 Amended Complaint, *see* BLI Defs.' Mot. to Dismiss (Dkt. No. 126); Underwriter Defs.' Mot. to
 15 Dismiss (Dkt. No. 128); Nikon Mot. to Dismiss (Dkt. No. 129); Celesta Defs. Mot. to Dismiss
 16 (Dkt. No. 131); Sequoia's Mot. to Dismiss (Dkt. No. 132), noticing a March 16, 2023 hearing
 17 date;

18 WHEREAS, Plaintiffs have since filed an omnibus opposition to Defendants' motions to
 19 dismiss (Dkt. No. 137), and Defendants have filed their respective replies (Dkt. Nos. 138, 140,
 20 141, 142, 143);

21 WHEREAS, an in-person hearing on Defendants' motions to dismiss is currently set for
 22 March 16, 2023, at 2:00 p.m.;

23 WHEREAS, due to a recently re-scheduled engagement committed to before the hearing
 24 date was set, the attorney responsible for arguing on behalf of Plaintiffs is no longer able to
 25 appear and argue on March 16, 2023;

27 ¹ The Celesta Capital entities named in the Amended Complaint are Walden Riverwood
 28 GP, LLC, Walden Riverwood Ventures, L.P., WIIG Communications Management LLC, WRV-
 BLI LLC, WRV-BLI II, LLC, WRV-BLI III LLC, WRV-BLI IV, LLC, WRV GP II, LLC, and
 WRV II, L.P.

1 WHEREAS, Plaintiffs' alternative counsel is also unable to appear on March 16, 2023
2 due to a noticed deposition in another matter;

3 WHEREAS, in light of the unanticipated scheduling conflicts, Plaintiffs have requested
4 and Defendants have agreed to a continuance of the hearing on Defendants' motions to dismiss;

5 WHEREAS, the Parties have met and conferred regarding alternative hearing dates that
6 can accommodate counsel for all Parties; and

7 WHEREAS, the Parties have reviewed the Court's calendar for the next open hearing
8 dates on civil motions;

9 IT IS ACCORDINGLY STIPULATED, pursuant to Civil L.R. 6-1(a) and 7-7 (b)(1), by
10 and between the undersigned counsel for the Parties, subject to Court approval, that the hearing
11 date for Defendants' Motions to Dismiss (Dkt. Nos. 126, 128, 129, 131, 132) should be
12 continued from March 16, 2023, at 2:00 p.m., to June 22, 2023, at 2:00 p.m.

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14 IT IS SO STIPULATED.

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16 Dated: March 2, 2023

Respectfully submitted,

17
18 By /s/ Lucas E. Gilmore

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26 Wood, Igor Khandros, Michael Marks, Sarah
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LLC, WRV-BLI II, LLC, WRV-BLI III LLC,

WRV-BLI IV, LLC, WRV GP II, LLC, and
WRV II, L.P.

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(h)(3)

I, Lucas E. Gilmore, am the ECF User whose identification and password are being used to file the foregoing **STIPULATION AND [PROPOSED] ORDER REGARDING HEARING ON DEFENDANTS' MOTIONS TO DISMISS**. In compliance with Civil Local Rule 5-1(h)(3), I hereby attest that all signatories have concurred in this filing.


DATED: March 2, 2023

By: /s/ Lucas E. Gilmore
Lucas E. Gilmore (SBN 250893)

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 3/2/2023


Hon. Haywood S. Gilliam, Jr.